

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: Health Care Committee

---

BILL: CS/SB 1846

INTRODUCER: Health Care Committee and Senator Peaden

SUBJECT: Hospitals

DATE: March 30, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bedford</u>	<u>Wilson</u>	<u>HE</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	<u>Withdrawn</u>
3.	_____	_____	<u>HA</u>	_____
4.	_____	_____	<u>WM</u>	<u>Withdrawn</u>
5.	_____	_____	<u>RC</u>	<u>Withdrawn</u>
6.	_____	_____	_____	_____

## I. Summary:

This bill prohibits the Agency for Health Care Administration (agency) from authorizing additional emergency departments located off the premises of licensed hospitals until the agency has adopted rules to establish licensure standards. This bill requires the agency to adopt rules no later than January 1, 2007, establishing licensure standards for emergency departments located off the premises of a licensed hospital. The rules must:

- Include minimum criteria for patient care and safety, quality improvement, infection control, building design and construction, and location.
- Require the hospital to maintain an emergency department on its premises.
- Specify that an emergency department off the premises that was operating prior to the adoption of rules shall continue to operate in accordance with the licensure criteria under which it was originally authorized.

The bill exempts from health care clinic licensure entities that provide oncology or radiation therapy services, which are owned by a corporation whose shares are publicly traded on a registered stock exchange. The bill also exempts entities that provide licensed practitioners to staff emergency departments or to provide anesthesia services to facilities licensed under ch. 395, F.S., and which derive at least 90 percent of their gross annual revenues from these services. These latter entities must provide to the agency documentation demonstrating compliance.

This bill amends ss. 395.003, 395.1055, and 400.9905, Florida Statutes.

## II. Present Situation:

Under ch. 395, F.S., the agency is responsible for licensing and regulating hospitals. A hospital offers services more intensive than those required for room, board, personal services and general nursing care. A range of health care services are offered with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy. Also available are clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent. Unaccredited facilities and initial licenses require certification and licensing surveys. Under state and federal regulations, accredited hospitals are "deemed" to meet the requirements and do not receive an annual license and certification survey. All hospitals are subject to annual life-safety and biennial risk management surveys.

### Current Freestanding Emergency Departments

Under s. 395.003(1)(b)3, F.S., the agency may not authorize additional emergency departments located off the premises of licensed hospitals until July 1, 2006. Prior to this being the law, the agency had authorized the licensure of two freestanding emergency departments as described below. The agency approved these freestanding emergency departments for two reasons:

- Emergency room patients are outpatients; and
- Chapter 395, F.S., the licensing statute for hospitals, allows hospitals to list offsite outpatient facilities on their licenses.

Chapter 395, F.S., does not regulate outpatients or outpatient services or define them. Emergency room patients are considered and billed as outpatients even by Medicaid and Medicare.

#### *Munroe Regional Medical Center*

In June, 2000, the CEO for the Munroe Regional Medical Center sent a letter to the agency requesting to build an offsite emergency department. The agency responded with a letter outlining the criteria that would need to be met for the facility to be added to the license which included: review by the Joint Commission on Accreditation of Healthcare Organizations; same level of emergency department services as the main hospital; state inspection and safety requirements; and meeting the requirements of the federal Emergency Medical Treatment and Labor Act. In April, 2002, the agency approved the first offsite, freestanding emergency department to the license of the Munroe Regional Medical Center inpatient facility. This facility, located in Ocala, Florida, approximately 12 miles from the main facility, also has an onsite emergency department

#### *Ft. Walton Beach Medical Center*

In October, 2003, the agency approved Florida's second freestanding emergency department for Ft. Walton Beach Medical Center. The offsite facility is located in Destin, approximately 12 miles east of the main inpatient facility.

## **Health Care Clinic Licensure**

Part XIII of ch. 400, F.S., provides for the licensure by the agency of health care clinics. Clinic is defined to mean an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider (s. 400.9905(4), F.S). This subsection also specifies that the term does not include and the licensure requirements do not apply to a list of specified entities. Included in the list of exemptions are entities that provide neonatal or pediatric hospital-based health care services by licensed practitioners solely within a hospital licensed under ch. 395, F.S.

### **III. Effect of Proposed Changes:**

**Section 1.** Amends s. 395.003, F.S., to prohibit the agency from authorizing additional emergency departments located off the premises of licensed hospitals until the agency has adopted rules under s. 395.1055(9), F.S., which is created in section 2 of the bill.

**Section 2.** Amends s. 395.1055, F.S., adding subsection (9) to require the agency to adopt rules no later than January 1, 2007, which establish the standards for emergency departments located off the premises of a licensed hospital. The rules must:

- Included minimum criteria for patient care and safety, quality improvement, infection control, building design and construction, and location.
- Require the hospital to maintain its own emergency department on its premises according to agency rules.
- Specify that an off the premises emergency room authorized prior to the adoption of rules must continue to operate according to the criteria under which it was originally authorized.

**Section 3.** Amends s. 400.9905, F.S., exempting from health care clinic licensure entities that provide oncology or radiation therapy services, which are owned by a corporation whose shares are publicly traded on a registered stock exchange. The bill also exempts entities that provide licensed practitioners to staff emergency departments or to provide anesthesia services to facilities licensed under ch. 395, F.S., and which derive at least 90 percent of their gross annual revenues from these services. These latter entities must provide to the agency documentation demonstrating compliance.

**Section 4.** Provides an effective date of July 1, 2006.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill could result in additional revenue for hospitals allowed to have emergency departments off their premises as a form of expansion. There are market incentives for hospitals that want to capitalize in a new, growing area that might later support further development. There is a potential negative effect on safety net hospitals that serve many uninsured and underinsured patients.

**C. Government Sector Impact:**

The agency is required to adopt rules, which will create a minimal fiscal impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---